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Exempt Action: Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9 VAC 25 - 151
VAC Chapter title(s)	Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity
Action title	Final 2024 Amendment and Reissuance of the VPDES Industrial Stormwater General Permit Regulation
Final agency action date	November 30, 2023
Date this document prepared	October 19, 2023

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This action addresses the proposed reissuance of the Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity. The existing general permit regulation establishes limitations, monitoring requirements and other special conditions for point source discharges of stormwater associated with industrial activity to surface waters in order to maintain surface water quality. This regulatory action proposes to amend and reissue the existing general permit, which expires on June 30, 2024.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

This regulation (9VAC25-151) constitutes a VPDES general permit administered by Virginia DEQ, a U.S. EPA authorized permitting authority under § 402(b) of the Clean Water Act (CWA). Under CWA § 402(b)(1)(B), VPDES permits must be for fixed terms not to exceed five years. The existing general permit expires on June 30, 2024 and must be reissued for another term to remain available to permittees. If this permit is not re-issued in a timely manner, no new coverage is available to any new facility owner or operator and such owners or operators would be required to obtain individual VPDES permits, which require more time to develop and issue, and impose significantly greater burden and costs on permittees and increased administrative burden on DEQ. In addition, internal staff review and meetings with a Technical Advisory Committee identified areas where the general permit could be updated and improved.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the “Definitions” section of the regulation.

- Board: State Water Control Board
- CWA: Clean Water Act
- EPA (U.S. EPA): United States Environmental Protection Agency
- BMP: Best Management Practice
- DEQ: Department of Environmental Quality
- DMR: Discharge Monitoring Report
- ELG: Effluent Limitations Guidelines
- MSGP: Multi-Sector General Permit
- NOIRA: Notice of Intended Regulatory Action
- NPDES: National Pollutant Discharge Elimination System
- PFAS: Per- and Polyfluoroalkyl Substances
- PRP: Pollution Response Preparedness
- SAV: Submerged aquatic vegetation
- SIC: Standard Industrial Classification
- SWPPP: Stormwater Pollution Prevention Plan
- TAC: Technical Advisory Committee
- TMDL: Total Maximum Daily Load
- TSS: Total Suspended Solids
- USC: United States Code
- VAC: Virginia Administrative Code
- VPDES: Virginia Pollutant Discharge Elimination System
- WIP: Watershed Implementation Plan
- WQS: Water Quality Standard

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On November 30, 2023 the State Water Control Board adopted 9VAC25-151, the Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity, as a final regulation and affirmed that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Legal Basis

Identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity’s overall regulatory authority.

The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the Board to issue permits for the discharge of treated sewage, industrial wastes or other wastes into or adjacent to state waters and § 62.1-44.15(7) authorizes the Board to adopt rules governing the procedures of the Board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the Board to adopt such regulations as it deems necessary to enforce the general water quality management program, §62.1-44.15(14) authorizes the Board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.16 specifies the Board’s authority to regulate discharges of industrial wastes or other wastes, § 62.1-44.20 provides that agents of the Board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations, and § 62.1-44.21 authorizes the Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC § 1251 et seq.) authorizes states to administer the National Pollutant Discharge Elimination System (NPDES) permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991 to authorize the Commonwealth to administer a General VPDES Permit Program.

Changes to this chapter of the Virginia Administrative Code are exempt from Article 2 of the Administrative Process Act (§ 2.2-4006 A 8).

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it’s intended to solve.

This regulatory action is needed to establish permitting requirements for stormwater discharges associated with industrial activity to surface waters in order to maintain surface water quality and thus protect the health, safety and welfare of citizens. The existing general permit expires on June 30, 2024, and must be reissued to continue to authorize stormwater discharges associated with industrial activity through general permit coverage.

Other amendments to the general permit regulation that are required to maintain consistency with federal requirements and address stakeholder concerns include updates to sector-specific benchmarks, monitoring requirements, and special conditions.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.

The general permit establishes limitations and monitoring requirements for point source discharges of stormwater associated with industrial activity to surface waters. DEQ staff and members of the TAC reviewed effluent limits, monitoring requirements, and special conditions in the general permit to ensure that the permit is protective of water quality and consistent with federal requirements for discharges of stormwater associated with industrial activity to surface waters. The primary issue that is being addressed is that the existing general permit expires on June 30, 2024 and must be reissued in order to continue making it available after that date. Some general requirements in the permit that are being updated include sector-specific benchmarks, monitoring, and special conditions. A significant change was updating the Chesapeake Bay TMDL compliance language and consolidating the requirements into a new section (9VAC25-151-400).

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The advantages to the public, permittees and the agency of reissuing this general permit are that a Virginia Pollutant Discharge Elimination System (VPDES) General Permit will continue to be available to facilities with eligible discharges enabling them to discharge to surface waters in a manner that is protective of those waters. In addition, the continued availability of this general permit avoids the increased cost and more complicated application process for permittees associated with issuing an individual permit, and makes permit administration more reasonable for DEQ. There are no known disadvantages the public, agency, or regulated community.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no requirements that exceed applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

There are no changes to previously reported information concerning agencies, localities and entities particularly affected.

Other State Agencies Particularly Affected:

There are no state agencies particularly affected by the proposed regulation.

Localities Particularly Affected:

There are no localities that bear a disproportionate material impact as the general permit is available and applies statewide. The proposed amendments to the regulation apply statewide, except for the Chesapeake Bay TMDL Special Condition. The general permit regulation implements the Commonwealth of Virginia’s Chesapeake Bay TMDL Phase I Watershed Implementation Plan dated November 29, 2010, and the subsequent Phase II and III WIPs. The proposed amendments applicable throughout the

Chesapeake Bay watershed are not expected to impose a disproportionate material water quality impact on any locality that would not be experienced by the other localities in the Chesapeake Bay watershed.

Other Entities Particularly Affected:

There are no other entities that bear a disproportionate material impact as the general permit is available and applies statewide.

Public Comment

Summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. Ensure to include all comments submitted: including any received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.

Commenter	Comment	Agency response
<p>Chesapeake Bay Foundation Patrick J. Fanning Virginia Staff Attorney</p>	<p>Nutrient Benchmark Monitoring.</p> <p>The current approach to nutrient and sediment benchmark monitoring would exempt, seemingly in perpetuity, any facility that happened to achieve four grab sampling events that showed results below the applicable benchmark from any future nutrient monitoring or reduction obligation. This approach fails to provide reasonable assurance that the covered facilities are not contributing nutrient and sediment discharges to Bay tributaries. At a minimum, DEQ should require a facility that completed benchmark monitoring and did not trigger the need for a TMDL action plan to complete benchmark monitoring in a subsequent permit cycle.</p> <p>Put simply, one benchmark monitoring set of four grab samples is insufficient to permanently exempt a facility from evaluating its potential for nutrient and sediment discharges.</p> <p>What is more, the current approach does not distinguish between facilities that had a demonstrated nutrient or sediment discharge and therefore should require enhanced, subsequent benchmark monitoring, from those facilities that had nutrient and sediment discharges below quantitation levels and could qualify for less frequent benchmark monitoring.</p> <p>In no event should one benchmark monitoring cycle exempt a facility from any future nutrient and sediment benchmark monitoring.</p>	<p>Benchmark monitoring requirements for nutrients and sediment are handled on a Sector-specific basis under Part IV of the permit (9VAC25-151-85, et seq.). DEQ has not proposed removing any of the Sector-specific nutrient or sediment benchmarks as part of this regulatory action.</p> <p>The TMDL monitoring associated with the Chesapeake Bay TMDL Compliance conditions (9VAC25-151-400) addresses existing conditions at existing facilities.</p> <p>Owners of existing facilities are required to submit a demonstration of compliance with the Chesapeake Bay TMDL loading rates. Demonstrations of compliance may include: (1) Calculations submitted to the department indicating that reductions were not necessary; (2) A completed TMDL Action Plan, including a description of the means and methods, such as management practices and retrofit programs, that were utilized to meet the required reductions; (3) Other means accepted by the Department indicating compliance with the Chesapeake Bay TMDL loading rates.</p> <p>Owners must also maintain documentation of their demonstration of compliance with the SWPPP and continue implementing any BMPs that may have been developed as part of that demonstration.</p> <p>Expansions of industrial area at existing facilities in the Chesapeake Bay watershed are addressed in 9VAC25-</p>

	<p>This infrequent benchmark monitoring is not an unreasonable burden on facilities that are already benefiting from reduced costs due to their coverage under the General Permit. As mentioned in the Office of Regulatory Management’s Economic Review Form for the General Permit, permittees covered by the General Permit enjoy significant cost savings of more than \$18,000 over a five-year permit term. Given this significant cost savings, it is reasonable, and necessary, to require permittees to conduct monitoring for nutrient benchmark exceedances rather than rely on dated, historic monitoring results.</p> <p>Industrial stormwater has the potential to be a significant source of pollution. A previous analysis of Virginia’s monitoring data from this permit illustrates that six facilities contributed a combined 8,000 pounds of phosphorous loading beyond Wasteload Allocation (WLA) basis levels. That is a staggering amount of pollution that would not have been addressed without monitoring. Recurrent water quality monitoring at these facilities is critical in order to detect and address problems such as these.</p>	<p>151-70, Part I.B.9. This section requires the owner to demonstrate no net increase of stormwater nutrient and sediment load as a result of the expansion of the industrial area.</p> <p>Similarly, newly constructed facilities are addressed in 9VAC25-151-60, C.13. This section requires newly constructed facilities to demonstrate at the time of registration that the industrial stormwater discharges do not exceed the nutrient and sediment loadings that were discharged before the land was developed for the industrial activity.</p> <p>An analysis of 2014-2022 Chesapeake Bay TMDL monitoring data, which consists mainly of monitoring data collected prior to the implementation of additional control measures, was presented and discussed during the TAC meetings. The data indicated that the industrial sector as a whole is already meeting the expected TMDL loads for this permit. Further, an analysis of “high-load” facilities and their current status was conducted and presented to the TAC. That analysis indicated that the top six facilities contributed a combined 6,545 pounds of phosphorus loading beyond the WLA basis levels. However, the facility with the highest contribution (2,848 lbs. beyond WLA basis) has been shut down and the remaining five are implementing TMDL Action Plans.</p> <p>No changes are being made to the regulation in response to this comment.</p>
<p>Chesapeake Bay Foundation Patrick J. Fanning Virginia Staff Attorney</p>	<p>CBF recommends DEQ develop SIC specific guidance on managing nutrient loads for SIC codes with high loading rates and for highly impervious facilities. Previous analyses have demonstrated some SICs (e.g., fertilizer facilities) have higher propensity for high nutrient loading rates.</p>	<p>Benchmark monitoring requirements and numeric effluent limitations for nutrients are handled on a Sector-specific basis under Part IV of the permit (9VAC25-151-85, et seq.).</p> <p>For example, Sector C (Chemical and Allied Products Manufacturing) has total nitrogen and/or total phosphorus benchmarks for the following industries: Agricultural Chemicals (SIC 2873-2879); Industrial Inorganic Chemicals (SIC 2812-2844); Soaps, Detergents, Cosmetics, and Perfumes (SIC 2841-2844); Composting Facilities (SIC 2875).</p>

		<p>No changes are being made to the regulation in response to this comment.</p>
<p>Chesapeake Bay Foundation Patrick J. Fanning Virginia Staff Attorney</p>	<p>Removal of TSS [total suspended solids]/Sediment Requirements Is Illegal.</p> <p>CBF continues to strenuously object to DEQ's removal of sediment reduction requirements from permits, most recently in the Small Municipal Separate Storm Sewer System General Permit.</p> <p>Similar to the Small MS4 General Permit reissuance, DEQ noted this proposed change at the last moment of the stakeholder process and did not provide meaningful opportunity for stakeholder input. As noted in the minutes of the December 1 stakeholder meeting on the General Permit reissuance, questions were raised by stakeholders about the proposed removal of sediment language from the permit, in particular, related to anti-backsliding concerns. DEQ committed to examining this issue and addressing this concern, yet neither the agency background document nor any other materials associated with the reissuance provides any analysis or response to this concern. Rather, DEQ simply continues to cite a 2019 letter from the Chesapeake Bay Program Principals' Staff Committee (PSC). As we have previously stated, the proposed removal of sediment requirements from general permits, here in section 9VAC25-151-400 regarding Bay TMDL compliance, raises significant concerns about compliance with the Clean Water Act (CWA).</p> <p>First, removing the sediment reduction provisions from the General Permit would be unlawful because the CWA and Bay TMDL require National Pollutant Discharge Elimination System (NPDES) permits to be consistent with applicable TMDLs, including the Bay TMDL. According to 40 C.F.R. § 122.44(d)(1)(vii)(B), all NPDES discharge permits must include water-quality based effluent limitations that are "consistent with the assumptions and requirements of any available wasteload allocation," meaning the proposed General Permit will be unlawful unless it implements effluent</p>	<p>DEQ provided information on the removal of Chesapeake Bay TMDL TSS compliance requirements at the December 1, 2022 TAC meeting. The minutes of the TAC meeting were shared with the TAC members on December 28, 2022, and posted to the Virginia Register on January 12, 2023. The proposed amendments to the regulation were subject to a public hearing and a public comment period.</p> <p>The Fact Sheet has been revised to include additional information addressing the removal of the TSS loading rate requirements and clarifies that BMPs installed for the purposes of meeting the nutrient load reductions will continue to provide additional sediment reductions, ensuring that the permit is consistent with the Chesapeake Bay TMDL and will achieve the SAV/water clarity standards. That language states, in part:</p> <p><i>Notably, the TSS loading rate requirements previously required under this section have been removed for the 2024 general permit. On August 12, 2019, the Chesapeake Bay Program Principals' Staff Committee (PSC) approved the process, timeline, and proposed Phase III WIP language for developing the Phase III WIP sediment targets. The Commonwealth of Virginia included the PSC-approved language in its final Phase III WIP on Page 29, Section 5.2 (Sediment Targets). This language states in part, "Sediment loads are managed in the Bay TMDL to specifically address the water clarity/submerged aquatic vegetation (SAV) water quality standards. Intuitively, it makes sense that the more sediment suspended in the water, the less makes it down to the SAV. Interestingly, research in the Chesapeake Bay has shown that the water clarity/SAV water quality standard is generally more responsive to nutrient load reductions than it is to reduction in sediment loads. This is because the algae that are fueled by the nutrients can block as much, or more, light from reaching the SAV as</i></p>

	<p>limits that are consistent with the sediment WLA of the Bay TMDL. Removing sediment sampling and reductions (where necessary) in the proposed General Permit is inconsistent with this requirement.</p> <p>Second, the PSC letter does not have the authority to ratify this unlawful conduct. Nothing in the cited PSC letter altered or amended the enforceability of the sediment WLAs in the Bay TMDL. Rather, the PSC letter merely notes that water clarity/submerged aquatic vegetation (SAV) is more responsive to nutrient reductions than sediment load reductions. However, the PSC letter itself notes that “there are detrimental effects of sediment on the clarity/SAV [Water Quality Standard] and state-level regulatory frameworks of the tidal CBP States address the issue of sediment’s detrimental effects on water clarity and SAV.” See Letter at 1.4. At a minimum, it is not clear the extent to which the PSC may itself have been relying on the very sediment reductions in this permit in making such a statement, creating the potential that DEQ’s proposed action may in fact undermine, and be inconsistent with, the assumptions in the PSC letter. Further, as EPA explains in the PSC letter, the methodology for calculating sediment targets has not changed since the Phase II Watershed Implementation Plan (WIP), and thus, since the last reissuance of this permit. Therefore, it is challenging to understand why DEQ is choosing to make this change at this juncture.</p> <p>The Bay TMDL explicitly singles out sediment as one of the three pollutants that pose the greatest threat to the Bay. Virginia is responsible for 41% of the sediment loads delivered to the Bay. Half of the tidal segments of the Chesapeake Bay included in Virginia’s Integrated Report have been classified as impaired due to SAV/Water Clarity Issues. Even if this designated use is more responsive to nutrient reductions, sediment still degrades these designated uses and DEQ has the responsibility to manage the degradation from sediment for impaired</p>	<p><i>suspended sediments. <u>The sediment targets will not affect the BMPs called for in the WIP, and are not intended to be the driver for implementation moving forward...</u></i></p> <p><i>Given that the Phase III WIP does not intend for sediment targets to be the driver for implementation moving forward, DEQ is reissuing this general permit without the TSS loading rate requirements. The reissued general permit will continue to include the required nutrient load reductions for nitrogen and phosphorous.</i></p> <p><i>While the Commonwealth of Virginia has met the 2025 Sediment milestone target, it should be noted that the BMPs installed for the purposes of meeting the nutrient reductions will continue to provide additional sediment reductions as well, ensuring that the permit is consistent with the Chesapeake Bay TMDL.</i></p> <p><i>The removal of the sediment reduction requirements for the Chesapeake Bay TMDL does not relieve permittees of their responsibility to comply with the requirements of a local TMDL or impaired water without an approved TMDL as addressed under Part I.A.1.c(3) and (4) of this permit, respectively. Additionally, benchmarks and numeric effluent limitations for TSS continue to be applied on a sector-specific basis under Part IV of this permit.</i></p> <p><i>Anti-backsliding: The Clean Water Act, section 303(d)(4)(A) allows the establishment of a less stringent effluent limitation when the receiving water has been identified as not meeting applicable water quality standards (i.e., a nonattainment water) if the permittee meets two conditions: 1) the existing effluent limitation must have been based on a total maximum daily load (TMDL) or other wasteload allocation (WLA) established under CWA section 303, and 2) relaxation of the effluent limitation is only allowed if attainment of water quality standards will be ensured. The removal of the TSS loading rate requirements meets both criteria: 1) the limitation was based</i></p>
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	<p>waterways both within the Bay watershed and beyond, yet many lack local sediment TMDLs. Further, the Chesapeake Bay Program Partnership has suggested there is a need for additional analyses “in tributary open waters and shallow water habitats, where the estuary model currently struggles to predict water quality standards attainment.” The current “Comprehensive Evaluation of System Response” (CESR) effort has focused on the need to consider restoration efforts on shallow waters where aquatic species abound and where impacts of sediment are most acutely felt.</p> <p>Further, the quicker response to nutrient reductions could simply be driven by lag times whereby nutrients are flushed relatively quickly when sources are reduced whereas sediment loads may have longer lag times. If that is the case, it may take longer to see designated use response from sediment reductions. That, however, is not a reason not to manage this pollutant, and in fact, points to the importance of preventing sediment loads in order to avoid impairments that can last for long periods of time.</p> <p>Therefore, it is abundantly clear that reducing sediment loads from industrial facilities is an integral part of the Bay TMDL. DEQ cites the PSC’s statement that water clarity/SAV water quality is “generally more responsive to nutrient load reductions than it is to reduction in sediment loads;” however, industrial facilities should not lose sight of the sediment reductions they will achieve through BMPs they implement to address nitrogen and phosphorus—and such reductions should be tracked and reported where required in the existing permit.</p> <p>Finally, local streams within and outside the Bay watershed are impaired for sediment. Sediment in the watershed is already the subject of thousands of local sediment TMDLs in streams and rivers being implemented by the Chesapeake Bay Program partners. There are also many streams impaired for sediment for which TMDLs are yet to be completed.</p>	<p><i>on a TMDL established under CWA section 303 and 2) the water quality standard for clarity/SAV will still be attained, as noted above.</i></p> <p>No changes are being made to the regulation in response to this comment.</p>
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<p>Chesapeake Bay Foundation Patrick J. Fanning Virginia Staff Attorney</p>	<p>CBF supports DEQ's proposal to consolidate all Bay TMDL compliance language into new section 9 VAC 25-151-400.</p> <p>CBF also supports the proposed modifications to 9 VAC 25-151-70 Part I.B.1.a and g requiring that emergency firefighting and firefighting activity discharges and routine external building washdown discharges must be managed in a manner to avoid an instream impact.</p>	<p>Noted.</p> <p>No changes are being made to the regulation in response to this comment.</p>
<p>City of Alexandria, Virginia Jesse E. Maines Division Chief Stormwater Management, Transportation and Environmental Services</p>	<p>The City appreciates the additional context added to clarify that stormwater discharges should be 'managed in a manner to avoid an instream impact' which is similar to the Phase II MS4 updated language.</p>	<p>Noted.</p> <p>No changes are being made to the regulation in response to this comment.</p>
<p>City of Alexandria, Virginia Jesse E. Maines Division Chief Stormwater Management, Transportation and Environmental Services</p>	<p>The City agrees with the addition of requiring a pollutant minimization plan (PMP) when TMDL wasteload allocations are exceeded.</p>	<p>Noted.</p> <p>No changes are being made to the regulation in response to this comment.</p>
<p>City of Alexandria, Virginia Jesse E. Maines Division Chief Stormwater Management, Transportation and Environmental Services</p>	<p>The City supports DEQ's decision to remove total suspended solids/sediment from the Chesapeake Bay TMDL special condition in the permit.</p> <p>We agree with DEQ's statement in a letter to U.S. EPA's Region 3 Administrator that the "sediment targets will not affect the BMPs called for in the WIP [Watershed Implementation Plan], and are not intended to be the driver for implementation moving forward...".</p> <p>There is no scientific or practical basis for continued inclusion of sediment reductions in the GP.</p>	<p>Noted.</p> <p>No changes are being made to the regulation in response to this comment.</p>

<p>Southern Environmental Law Center, James River Association, and Wild Virginia Carroll Courtenay (SELC) Tom Dunlap (JRA) David Sligh (WV)</p>	<p>In order to ensure that application of the General Permit controls stormwater discharges “as necessary to meet applicable water quality standards,” DEQ must require facilities seeking coverage under the permit to disclose whether their stormwater discharges contain PFAS. DEQ should require any facility that discharges PFAS in stormwater to obtain a VPDES Individual Permit so DEQ can establish technology-based and water quality-based effluent limitations necessary to protect Virginia’s waters. If facilities that discharge PFAS in stormwater are still permitted to obtain coverage under the General Permit, DEQ should incorporate benchmark monitoring requirements for PFAS and PFAS-specific best management requirements into the General Permit.</p>	<p>As specified in 40 CFR 125.3, technology-based treatment requirements under CWA Section 301(b) represent the minimum level of control that must be imposed in NPDES permits (or VPDES permits for the Commonwealth of Virginia). NPDES/VPDES permits must include water quality-based effluent limits (WQBELs) as derived from water quality standards.</p> <p>There are currently no WQBELs and no EPA-approved methods in Part 136 of Title 40 of the Code of Federal Regulations for PFAS. EPA is currently validating Method 1633 in collaboration with the Department of Defense (DoD) for the determination of the PFAS in aqueous, solid, and tissue samples. As such, DEQ is not proposing monitoring or effluent limitations for PFAS in the amended regulation.</p>
<p>Virginia Municipal Stormwater Association (VAMSA) and Virginia Association of Municipal Wastewater Agencies (VAMWA) Michelle Ashworth Paralegal, AquaLaw</p>	<p>The ISWGP Should Not Require After-Hours Compliance Sampling (Parts I.A.2.b, VA Register, p. 2405 & V.B.2, VA Register, p. 2447-2448).</p> <p>VAMSA’s Membership includes municipal entities that manage covered facilities, like landfills and bus depots, under the Proposed ISWGP. These regulated facilities do not operate 24/7, and in many cases, the sampling access points are in remote, unlit areas of the property. VAMWA’s Membership includes small municipal POTWs that do not operate 24/7 and do not have laboratories that operate 24/7.</p> <p>VAMSA and VAMWA will not send their employees to take a sample alone in the dark in a remote location unless it is safe to do so.</p> <p>VAMSA and VAMWA request that DEQ revised the Proposed ISWGP language as follows:</p> <p>The grab sample shall be taken during the first 30 minutes of the discharge. If it is not practicable to take the sample during the first 30 minutes, the sample may be taken during the first three hours of the</p>	<p>The sampling frequency for benchmark monitoring parameters, numeric effluent limitations, and impaired waters monitoring under Part I.A.2 is semi-annual. Permittees thus have six months to obtain a minimum of one grab sample from a storm event for each reporting period. Given that Virginia averages over 40 inches of rainfall annually, it is expected that there will be ample opportunities for permittees to meet their sampling requirements, including permittees that have limited hours of operation. However, given the intermittent nature of storm events, permittees are strongly encouraged to obtain samples as early on in each monitoring period as practicable.</p> <p>Further, drought conditions are covered by Part I.A.3 of the permit which allows for substitute samples to be taken in the next monitoring period when adverse weather conditions prevent the collection of samples. Adverse weather conditions are those that are dangerous, create inaccessibility for personnel staff, or situations that otherwise make sampling impracticable (e.g. drought or extended frozen conditions).</p>

	<p>discharge, provided that the permittee explains why a grab sample during the first 30 minutes was impracticable. <u>Permittees are not required to conduct sampling outside of the covered facility's or its on-site lab's normal hours of operation, at any time when sending an employee to sample would leave the facility unattended or unstaffed, or at any time when sending an employee to sample would result in a risk to their health and/or safety. If a permittee is not able to obtain a sample for any of the reasons above, the permittee shall document why the sample was not taken and use best efforts to take a make-up sample during the following monitoring period.</u></p> <p>If the language above is not acceptable to DEQ, VAMSA and VAMWA suggest the following even more streamlined language:</p> <p>The grab sample shall be taken during the first 30 minutes of the discharge. If it is not practicable to take the sample during the first 30 minutes, the sample may be taken during the first three hours of the discharge, provided that the permittee explains why a grab sample during the first 30 minutes was impracticable. <u>A permittee who has health or safety concerns regarding obtaining a sample outside of the covered facility's normal hours of operation may contact DEQ regional staff to request an alternative sampling protocol to address these concerns.</u></p>	<p>Permittees that are faced with limited laboratory hours should make every attempt to obtain stormwater samples during a time when labs are available. However, in cases where a stormwater sample is obtained but laboratory hours fall outside of the holding time of a required parameter (e.g. 48-hour holding times for BOD₅, nitrate, nitrite), the sample should still be analyzed and a comment should be included with the DMR explaining that the holding time for the applicable parameter was exceeded.</p> <p>No changes are being made to the regulation in response to this comment.</p>
<p>Virginia Municipal Stormwater Association and Virginia Association of Municipal Wastewater Agencies Michelle Ashworth Paralegal, AquaLaw</p>	<p>VAMSA and VAMWA Supports Deferring PFAS Monitoring Requirements.</p> <p>VAMWA thanks DEQ for waiting to impose PFAS requirements on permittees rather than acting prematurely, given that EPA is still in the process of developing PFAS MCLs and testing methodologies and conducting a risk assessment for biosolids, among other things.</p>	<p>Noted.</p> <p>No changes are being made to the regulation in response to this comment.</p>

<p>Virginia Municipal Stormwater Association and Virginia Association of Municipal Wastewater Agencies Michelle Ashworth Paralegal, AquaLaw</p>	<p>Specific PMP Authorization Is the Preferred Approach (Part I.A.1.c.3.d, VA Register, p. 2404).</p> <p>The Proposed ISWGP includes a new provision which would require permittees to develop and implement pollutant minimization plans (PMPs) when notified by DEQ that the permittee’s discharges are exceeding any applicable TMDL wasteload allocations.</p> <p>During one of the TAC meetings, DEQ stated that it has previously requested PMPs from permittees using the ISWGP’s standard permit conditions (specifically, the “duty to provide information” condition). With the new language in the Proposed ISWGP, DEQ will have explicit authority to require these PMPs when appropriate.</p> <p>DEQ will not be relying on standard permit conditions to impose complex and costly compliance tasks on permittees.</p> <p>VAMWA agrees that this approach is preferable to the alternative.</p>	<p>Noted.</p> <p>No changes are being made to the regulation in response to this comment.</p>
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Additionally, the following significant comments were received from EPA prior to the beginning of the public comment period. The Agency responses provided below were reviewed and accepted by EPA.

Commenter	Comment	Agency response
<p>U.S. EPA</p>	<p>The 2021 EPA MSGP lists the requirements for air transportation facilities in Sector S. The draft permit is not consistent with the requirements in the MSGP. The marked permit and fact sheet identify the instances where this happens and requests support/rationale for these inconsistencies. Additionally, there is an ELG associated with these facilities at 40 CFR 449.</p>	<p>Virginia’s 2019 general permit removed authorization for coverage of discharges subject to effluent limitations in 40 CFR Part 449 as it was determined at the time that such facilities should be covered under Individual VPDES Permits. However, during the 2019 permit term a handful of such airports were covered under Sector AD (Nonclassified Facilities/Stormwater Discharges Designated By the Department As Requiring Permits) in order to avoid the additional cost and administrative burden of an Individual Permit. The use of Sector AD allowed coverage of these airports under the general permit at the department’s discretion and allowed for the inclusion of the ELG requirements (40 CFR 449) and any other benchmarks deemed necessary.</p>

		<p>Benchmarks for Sector S were also removed during the 2019 reissuance due to low exceedance rates (0% for total petroleum hydrocarbons, 4% for TSS). Given that Sector S no longer had any benchmark monitoring requirements or numeric effluent limitations, the sector was repealed and the Air Transportation Facility SIC codes were grouped into Sector AE (Facilities with no analytical benchmark monitoring requirements).</p> <p>The proposed amendments in the 2024 general permit clarify that facilities subject to federal effluent guidelines at 40 CFR 449 may be covered under Sector AD. Coverage for Air Transportation Facilities not subject to federal effluent guidelines remains under Sector AE as noted above.</p> <p>DEQ does not intend on implementing indicator monitoring.</p>
<p>U.S. EPA</p>	<p>Compliance with Chesapeake Bay TMDL Requirement – The draft permit in Part V.A.2.a states that owners of facilities that submitted a Chesapeake Bay TMDL Action Plan during the 2019 permit term but did not achieve reductions by the end of the permit term are allowed to provide a demonstration that they have achieved their reductions by December 31, 2025. Without some type of enforcement mechanism, the reissued permit may not allow additional time to perform activities that were required to be completed by the end of the previous permit term. This could also violate the NPDES anti-backsliding prohibition.</p>	<p>Part V.A.2.a has been revised to include an enforcement mechanism as follows:</p> <p><i>Owners of facilities that submitted a Chesapeake Bay TMDL action plan during the 2019 industrial stormwater general permit term that did not achieve reductions by the end of the 2019 permit term shall update and resubmit their action plan to the department for approval no later than 60 days following coverage under this general permit. <u>Permittees shall achieve ten percent of the remaining reductions by December 31, 2024, and all remaining reductions by December 31, 2025. An annual report shall be submitted to the department by June 30 of each year describing the progress in meeting the interim and final reductions.</u> A final report to demonstrate compliance shall be submitted to the department no later than January 10, 2026. Documentation of compliance with the Chesapeake Bay TMDL loading rates shall be maintained with the SWPPP.</i></p>

		<p>Additionally, the following information was added to the Fact Sheet to address anti-backsliding:</p> <p><i>NOTE: Facilities that fall into this category are considered out of compliance with the previous permit which required reductions to be completed by June 30, 2024. To address this, the above language enacts an enforcement mechanism with interim and final milestones. However, given that the enforcement mechanism language allows additional time to perform activities required to be completed by the end of the previous permit term, anti-backsliding needs to be addressed.</i></p> <p><i>Anti-backsliding: The Clean Water Act, section 303(d)(4)(A) allows the establishment of a less stringent effluent limitation when the receiving water has been identified as not meeting applicable water quality standards (i.e., a nonattainment water) if the permittee meets two conditions: 1) the existing effluent limitation must have been based on a total maximum daily load (TMDL) or other wasteload allocation (WLA) established under CWA section 303, and 2) relaxation of the effluent limitation is only allowed if attainment of water quality standards will be ensured.</i></p> <p><i>The enactment of the enforcement mechanism language meets both criteria: 1) the reduction requirements were based on a TMDL established under CWA section 303 and 2) the enforcement mechanism language will ensure the attainment of water quality standards.</i></p>
<p>U.S. EPA</p>	<p>Benchmark Monitoring – There are instances in the draft permit where the required benchmark parameters are not consistent with the 2021 EPA MSGP. EPA has identified these instances in the marked documents and recommends that the permit be revised to be consistent with the MSGP.</p> <p>Additionally, the permit requires that benchmark monitoring be performed only biannually, whereas the MSGP requires</p>	<p>The sources for each benchmark are identified in Table 3 of the Fact Sheet, including footnotes that explain the assumptions used for each parameter.</p> <p>Further, a discussion of the history of the benchmarks and numeric effluent limitations for each Sector has been added to the Fact Sheet for clarification.</p> <p>Semi-annual benchmark monitoring has been included in the Industrial</p>

	<p>quarterly benchmark monitoring. 40 CFR 122.41(j) states that “Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.” If VADEQ has a rationale for bi-annual sampling to be considered representative for stormwater discharges, it should be provided in the fact sheet.</p>	<p>Stormwater General Permit since the first issuance in 2004. DEQ has added rationale to the fact sheet explaining that the semi-annual monitoring frequency remains sufficient given the specific monitoring requirements (within 30 minutes of storm event, 72-hours since the last storm event) which are supported by quarterly visual monitoring and site inspections.</p>
<p>U.S. EPA</p>	<p>Two of this administration’s highest priorities are tackling climate change and environmental justice in regulatory/environmental programs, including the NPDES program. The draft documents presented to EPA make no mention of either of these topics. We urge DEQ to consider how these important subjects can be incorporated into the stormwater program and specifically this permit.</p>	<p>DEQ is in the process of addressing these concerns at a much higher level than specific permit requirements related to environmental justice and climate change. The Commonwealth of Virginia has proactively worked on the topics of environmental justice and climate resiliency within and outside the permitting process.</p> <p>In 2020, the Commonwealth enacted the Virginia Environmental Justice Act (Act), codified at §§ 2.2-234 and 2.2-235 of the Code of Virginia, which states that it is Virginia’s policy “to promote environmental justice and ensure that it is carried out throughout the Commonwealth, with a focus on environmental justice and fence line communities.” Further, DEQ’s enabling statute, § 10.1-1183 of the Code of Virginia, was amended to include in its statement of policy that DEQ’s purpose, among others, is “[t]o ensure the fair treatment and meaningful involvement of all people regardless of race, color, national origin, faith, disability, or income with respect to the administration of environmental laws, regulations, and policies.” The policy statement was also amended to include a statement affirming that agency would “further environmental justice and enhance public participation in the regulatory and permitting processes.” A detailed overview of ongoing activities is available on DEQ’s Environmental Justice webpage. DEQ has recently released draft guidance, Environmental Justice in the Permitting Process, for public comment. Once finalized in accordance with Virginia’s Administration Process Act, this guidance document will serve as the guidepost for ensuring</p>

		<p>environmental justice is included in the permitting process.</p> <p>The Commonwealth of Virginia has established the Chief Resilience Officer as the primary coordinator of resilience and adaptation initiatives in Virginia pursuant to § 2.2-220.5 of the Code of Virginia. As such they are the primary point of contact regarding recurrent flooding, all flooding related pre-disaster hazard mitigation, and adaptation. The Secretary of Natural and Historic Resources, Travis A. Voyles, is the Chief Resilience Officer for the Commonwealth of Virginia, a Cabinet level position for the Commonwealth of Virginia. One of the primary responsibilities of the Chief Resilience Office is to create and oversee the implementation of a Virginia Flood Protection Master Plan and a Virginia Coastal Resilience Master Plan in accordance with § 10.1-602 of the Code of Virginia to anticipate, prepare for, respond to, and recover from significant multi-hazard threats with minimum damage to social well-being, health, the economy, and the environment. The Commonwealth of Virginia's Chief Resilience Officer coordinates these activities through the Department of Conservation and Recreation, specifically the Department of Conservation and Recreation's Office of Resilience Planning.</p> <p>DEQ believes the correct course of action is to include the background provided above in the Fact Sheet for informational purposes and not include additional language in permits as it is unnecessary and duplicative in nature.</p>
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Other editorial changes were made in response to EPA comments and are detailed in the following sections.

Details of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
9VAC25-151-50. Authorization to discharge. C.4.g.			g. Pavement wash waters provided no soaps, solvents, detergents or hazardous cleaning products are used, no spills or leaks of toxic or hazardous materials have occurred (unless all spilled or leaked material is removed prior to washing), and the wash water is filtered, settled, or similarly treated prior to discharge;	<p>Revised for consistency with the Construction Stormwater general permit language (9VAC25-880-30) and in response to EPA comments.</p> <p>The previous language required that pavement wash waters be “managed in a manner to avoid an instream impact.” The revisions replace that language and clarify what it means.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-151-50. Authorization to discharge. C.4.h		h. Routine external building washdown that does not use detergents or hazardous cleaning products and is managed in a manner to avoid an instream impact;	h. Routine external building washdown provided no soaps, solvents or detergents are used, external building surfaces do not contain hazardous substances, and the wash water is filtered, settled, or similarly treated prior to discharge;	<p>Revised for consistency with the Construction Stormwater general permit language (9VAC25-880-30) and in response to EPA comments.</p> <p>The previous proposed language required that routine external building washdown be “managed in a manner to avoid an instream impact.” The revisions replace that language and clarify what it means.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-151-60. Registration		4. Late registration statements. Registration statements for	4. Late registration statements. Registration statements for	The final sentence of this section was removed as it is duplicative of 9VAC25-

<p>Statement. B.4</p>		<p>existing facilities covered under subdivision 1 a of this subsection will be accepted after June 30, 2024, but authorization to discharge will not be retroactive. Owners described in subdivision 1 a of this subsection that submit registration statements after May 1, 2024, are authorized to discharge under the provisions of 9VAC25-151-50 F (Continuation of permit coverage) if a complete registration statement is submitted before July 1, 2024.</p>	<p>existing facilities covered under subdivision 1 a of this subsection will be accepted after June 30, 2024, but authorization to discharge will not be retroactive.</p>	<p>151-50 F (Continuation of permit coverage). 9VAC25-151-60 B.1.a sets the registration statement submittal deadline for existing permittees. Section B.4 addresses late registration statement submittals and notes that while late submittals will be accepted, authorization to discharge will not be retroactive. No significant impact is expected due to this revision.</p>
<p>9VAC25-151-60. Registration Statement. C.10.g.</p>		<p>g. For primary airports, list the average deicing season and state which outfalls (if any) receive discharges from deicing or anti-icing operations;</p>	<p>g. For primary airports subject to 40 CFR 449 (1,000 or more annual departures of non-propeller aircraft), list the average deicing season and state which outfalls (if any) receive discharges from deicing or anti-icing operations;</p>	<p>Clarified that primary airports subject to 40 CFR 449 are those with 1,000 or more annual departures of non-propeller aircraft. This clarification was added in lieu of creating a new definition. No significant impact is expected due to this revision.</p>
<p>9VAC25-151-70. General Permit. Part I.B.1.g.</p>		<p>g. Routine external building washdown that does not use detergents or hazardous cleaning products and is managed in a manner to avoid an instream impact;</p>	<p>g. Routine external building washdown provided no soaps, solvents or detergents are used, external building surfaces do not contain hazardous substances, and the wash water is filtered, settled, or</p>	<p>Revised for consistency with the Construction Stormwater general permit language (9VAC25-880-30) and in response to EPA comments. The previous proposed language required that routine external building washdown be</p>

			similarly treated prior to discharge;	<p>“managed in a manner to avoid an instream impact.” The revisions replace that language and clarify what it means.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-151-70. General Permit. Part I.B.1.h.			h. Pavement wash waters provided no soaps, solvents, detergents or hazardous cleaning products are used, no spills or leaks of toxic or hazardous materials have occurred (unless all spilled or leaked material is removed prior to washing), and the wash water is filtered, settled, or similarly treated prior to discharge;	<p>Revised for consistency with the Construction Stormwater general permit language (9VAC25-880-30) and in response to EPA comments.</p> <p>The previous language required that pavement wash waters be “managed in a manner to avoid an instream impact.” The revisions replace that language and clarify what it means.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-151-80. Stormwater Pollution Prevention Plans. Part III.C (Maintenance)			If routine facility inspections required by Part III B 5 identify control measures that are not operating effectively, repairs or maintenance shall be performed before the next anticipated storm event. If maintenance before the next anticipated storm event is not possible, maintenance shall be scheduled and accomplished as soon as practicable, but not later than within 60 days of the	<p>Part III.B.5 (Routine facility inspections) requires that deficiencies in the implementation of the SWPPP that are found during routine inspections shall be corrected as soon as practicable, “but not later than within 60 days of the inspection, unless permission for a later date is granted in writing by the director.”</p> <p>This language has been added to Part III.C (Maintenance) in response to EPA comments to clarify that maintenance issues</p>

			<p>inspection, unless permission for a later date is granted in writing by the director. ...</p>	<p>identified during the routine inspections are also subject to these requirements.</p> <p>No significant impact is expected due to this revision.</p>
<p>9VAC25-151-90 through 9VAC25-390. Sector-Specific Permit Requirements. Part IV</p>				<p>As noted during the proposed stage, sector-specific benchmark monitoring parameters were updated in accordance with EPA's 2021 MSGP, the Virginia Water Quality Standards (WQS), and the recommendations of the TAC.</p> <p>Revisions to the benchmark for lead were included in the fact sheet and town hall documents but were inadvertently omitted from the proposed regulatory text during publication. As such, the lead benchmark has been updated in the final regulatory text.</p> <p>No significant impact is expected due to this revision.</p>
<p>9VAC25-151-220. Sector O (Steam electric generating facilities). C. Numeric Effluent Limitations.</p>			<p>C. Numeric effluent limitations. Permittees with point sources of coal pile runoff associated with steam electric power generation shall monitor these stormwater discharges for the presence of TSS and for pH in accordance with Part I A 1 c (2).</p>	<p>This section references the numeric effluent limitations for coal pile runoff listed in Table 70-3 under Part I.A.1.c(2), which includes a monitoring frequency of 1/6 months for both TSS and pH.</p> <p>As such, the phrase "at least annually" has been removed from the language under 9VAC25-151-220 C for consistency.</p>

				No significant impact is expected due to this revision.
9VAC25-151-370. Sector AD (Nonclassified facilities or stormwater discharges designated by the department as requiring permits). B.		B. Benchmark monitoring and reporting requirements. The department shall establish any additional monitoring requirements for your facility before authorizing coverage under this permit.	B. Effluent limitations, benchmark monitoring and reporting requirements. The department shall establish any additional monitoring requirements for your facility before authorizing coverage under this permit.	<p>The heading of this section was modified to clarify that the establishment of “additional monitoring requirements” by the department for facilities covered under this Sector may include effluent limitations (i.e. federal effluent guidelines).</p> <p>This change was made in response to EPA comments regarding coverage of primary airports.</p> <p>No significant impact is expected due to this revision.</p>
9VAC25-151-380. Sector AE (Facilities with no analytical benchmark monitoring requirements). A.			A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities with SIC Codes 2611, 2621, 2652-2657, 2833-2836, 2851, 2861-2869, 2891-2899, 3952, 3211, 3221, 3229, 3231, 3241, 3281, 3291-3299, 3331-3339, 3398, 3399, 3341, 1311, 1321, 1381-1389, 2911, 4512-4581 [(not subject to federal effluent guidelines)] ...	<p>A parenthetical note was added to SIC codes 4512-4281 (Air Transportation Facilities) to clarify that such facilities may only be covered under this Sector if they are not subject to federal effluent guidelines.</p> <p>This change was made in response to EPA comments regarding coverage of primary airports.</p> <p>No significant impact is expected due to this revision.</p>

<p>9VAC25-151-400. Chesapeake Bay TMDL Compliance. Part V.A.2.a</p>		<p>a. Owners of facilities that submitted a Chesapeake Bay TMDL action plan during the 2019 industrial stormwater general permit term that did not achieve reductions by the end of the 2019 permit term shall demonstrate that they have achieved their reductions by December 31, 2025. ...</p>	<p>a. Owners of facilities that submitted a Chesapeake Bay TMDL action plan during the 2019 industrial stormwater general permit term that did not achieve reductions by the end of the 2019 permit term shall update and resubmit their action plan to the department for approval no later than 60 days following coverage under this general permit. Permittees shall achieve ten percent of the remaining reductions by December 31, 2024, and all remaining reductions by December 31, 2025. An annual report shall be submitted to the department by June 30 of each year describing the progress in meeting the interim and final reductions. A final report to demonstrate compliance shall be submitted to the department no later than January 10, 2026.</p>	<p>Additional language in this section meets EPA's requirement to establish an enforcement mechanism with interim and final milestones for owners of facilities that submitted a Chesapeake Bay TMDL action plan during the 2019-2024 permit cycle but have not achieved those reductions. The revision allows owners or facilities additional time to perform activities required to be completed by the end of the previous permit term and satisfies anti-backsliding requirements in the Clean Water Act.</p> <p>The revised language requires that ten percent of the remaining reductions be achieved by December 31, 2024, and all remaining reductions be achieved by December 31, 2025.</p> <p>These revisions will only impact permittees that have not achieved their required reductions.</p> <p>Additionally, annual reporting requirement language previously required under Part II.B.8 that had inadvertently been left out of the consolidated language under Part V of the permit has been added back in.</p> <p>No significant impact is expected due to this revision.</p>
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<p>9VAC25-151-400. Chesapeake Bay TMDL Compliance. Part V.A.2.b and c.</p>		<p>... Reductions, if applicable, shall be achieved by December 31, 2025, and documentation that the reductions have been achieved shall be submitted to the department no later than January 10, 2026. ...</p>	<p>... Reductions, if applicable, shall be achieved by December 31, 2025, and an annual report shall be submitted to the department by June 30 of each year describing the progress in meeting the required reductions until such time that the demonstration is completed. The demonstration shall be submitted to the department no later than January 10, 2026. ...</p>	<p>Annual reporting requirement language previously required under Part II.B.8 that had inadvertently been left out of the consolidated language under Part V of the permit has been added back in.</p> <p>No significant impact is expected due to this revision.</p>
<p>9VAC25-151-400. Chesapeake Bay TMDL Compliance. Part V.A.3.a</p>		<p>... Reductions, if applicable, shall be achieved by two years following the end of the fourth quarterly monitoring period and documentation that the reductions have been achieved shall be submitted to the department no later than the 10th of the month directly following the two year period. ...</p>	<p>... Reductions, if applicable, shall be achieved by two years following the end of the fourth quarterly monitoring period and an annual report shall be submitted to the department by June 30 of each year describing the progress in meeting the required reductions until such time that the demonstration is completed. The demonstration shall be submitted to the department no later than the 10th of the month directly following the two year period. ...</p>	<p>Annual reporting requirement language previously required under Part II.B.8 that had inadvertently been left out of the consolidated language under Part V of the permit has been added back in.</p> <p>No significant impact is expected due to this revision.</p>

Details of All Changes Proposed in this Regulatory Action

List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new

requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
All Sections			<p><i>Minor edits to the language in all sections of the regulation were updated in accordance with the Virginia Register of Regulations’ “Form, Style and Procedure Manual for Publication of Virginia Regulations”.</i></p> <p><i>These edits do not constitute substantive changes to the regulation.</i></p>
All Sections			<p><i>Where applicable, “board” is replaced with “department” in accordance with the updated definition of “Board”.</i></p>
9VAC25-151-10. Definitions.		<p>“Measurable storm event” means a storm event that results in a discharge from an outfall.</p>	<p><i>Deleted definition. It is no longer referenced in the regulation.</i></p>
9VAC25-151-15. Applicability of incorporated references based on the dates that they became effective.		<p>Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations is referenced or adopted in this chapter and incorporated by reference, that regulation shall be as it exists and has been published as of July 1, 2018.</p>	<p><i>Revised date to “July 1, 2022” based on the most recent federal update prior to this reissuance. This change is needed to maintain consistency with references to federal regulations.</i></p>
9VAC25-151-40. Effective date of the permit		<p>This general permit will become effective on July 1, 2019. This general permit will expire on June 30, 2024.</p>	<p>This general permit will become effective on July 1, 2024. This general permit will expire on June 30, 2029.</p> <p><i>Amended dates to reflect new 5-year term.</i></p>
9VAC25-151-50. Authorization to discharge. B.4.		<p>B.4. The discharge is not consistent with the assumptions and requirements of an approved TMDL. Virginia’s Phase I Chesapeake Bay TMDL Watershed Implementation Plan</p>	<p><i>Amended the date to June 30, 2024, to indicate that facilities that commence construction following this date are considered new facilities which cannot exceed the nutrient and sediment loadings that were discharged prior to the land</i></p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
		(November 29, 2010) states that wasteloads for future growth for new facilities in the Chesapeake Bay watershed with industrial stormwater discharges cannot exceed the nutrient and sediment loadings that were discharged prior to the land being developed for the new industrial activity. For purposes of this permit regulation, facilities that commence construction after June 30, 2019, must be consistent with this requirement to be eligible for coverage under this general permit.	<i>being developed for the new industrial activity.</i>
9VAC25-151-50. Authorization to discharge. C.		C.	<i>Revised header of this section to "C. Additional Conditions".</i>
9VAC25-151-50. Authorization to Discharge. C.4.a		a. Discharges from emergency firefighting activities	a. Discharges from emergency firefighting activities or firefighting training activities managed in a manner to avoid an instream impact in accordance with § 9.1-207.1 of the Code of Virginia; <i>Added "firefighting training activities managed in a manner to avoid an instream impact in accordance with § 9.1-207.1 of the Code of Virginia" to be consistent with statutory requirements implemented after the issuance of the 2019 general permit.</i>
9VAC25-151-50. Authorization to discharge. C.4.g.		g. Pavement wash waters where no detergents or hazardous cleaning products are used, and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed). Pavement wash waters shall be managed in a manner to avoid an instream impact;	g. Pavement wash waters provided no soaps, solvents, detergents or hazardous cleaning products are used, no spills or leaks of toxic or hazardous materials have occurred (unless all spilled or leaked material is removed prior to washing), and the wash water is filtered, settled, or similarly treated prior to discharge;

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
			<p><i>Revised for consistency with the Construction Stormwater general permit language (9VAC25-880-30) and in response to EPA comments.</i></p> <p><i>The previous language required that pavement wash waters be “managed in a manner to avoid an instream impact.” The revisions replace that language and clarify what it means.</i></p>
<p>9VAC25-151-50. Authorization to Discharge. C.4.h</p>		<p>h. Routine external building washdown that does not use detergents or hazardous cleaning products.</p>	<p>h. Routine external building washdown provided no soaps, solvents, or detergents are used, external building surfaces do not contain hazardous substances, and the wash water is filtered, settled, or similarly treated prior to discharge.</p> <p><i>Revised for consistency with the Construction Stormwater general permit language (9VAC25-880-30) and in response to EPA comments.</i></p> <p><i>The previous proposed language required that routine external building washdown be “managed in a manner to avoid an instream impact.” The revisions replace that language and clarify what it means.</i></p>
<p>9VAC25-151-50. Authorization to Discharge. C.6</p>		<p>Discharges subject to stormwater effluent limitation guidelines under 40 CFR Subchapter N (Effluent Guidelines and Standards). Only those stormwater discharges subject to stormwater effluent limitation guidelines under 40 CFR Subchapter N that are identified in Table 50-1 of this subsection are eligible for coverage under this permit.</p>	<p>Discharges subject to stormwater effluent limitation guidelines under 40 CFR Subchapter N (Effluent Guidelines and Standards) are only eligible for coverage under this permit if they are identified in Table 50-1 of this subsection.</p> <p><i>Clarified wording and removed repetition.</i></p>
<p>9VAC25-151-50. Authorization</p>		<p>Table 50-1 Stormwater-Specific Effluent Limitation Guidelines.</p>	<p>... Facilities subject to the effluent limitation guidelines in 40 CFR Part 449 may be covered under Sector AD.</p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
to Discharge. C.6 Table 50-1		... Facilities subject to effluent limitation guidelines in 40 CFR Part 449 are not authorized under this permit.	<p><i>Authorization for discharges from deicing operations at primary airports was removed in the 2019 general permit. However, a handful of non-hub primary airports were subsequently covered under Sector AD (Nonclassified Facilities/Stormwater Discharges Designated by the Department as Requiring Permits) in order to avoid the unnecessary costs and administrative burden of coverage under an Individual VPDES Permit.</i></p> <p><i>As such, Tables 50-1 and 70-2 of the regulation have been updated to clarify that primary airports subject to the referenced federal effluent limitation guidelines may be covered under Sector AD. Further, a new condition has been added to Part III of the general permit to address deicing and anti-icing operations.</i></p>
9VAC25-151-60. Registration Statement and stormwater pollution prevention plan (SWPPP). A.		A. Any owner that was authorized to discharge under the industrial stormwater general permit that became effective on July 1, 2014, and that intends to continue coverage under this general permit shall review and update the stormwater pollution prevention plan (SWPPP) to meet all provisions of the general permit (9VAC25-151-70 et seq.) within 90 days of the board granting coverage under this permit ...	<p><i>Revised date to July 1, 2019, to reflect the term of the previous general permit.</i></p>
9VAC25-151-60. Registration Statement and stormwater pollution prevention plan (SWPPP). B.1.a		a. Any owner that was authorized to discharge under the industrial stormwater general permit that became effective on July 1, 2014, and that intends to continue coverage under this general permit shall submit a complete registration statement to the	<p><i>Revised dates to July 1, 2019, and May 1, 2024, respectively, in order to reflect the previous permit term and indicate when registration statements are due.</i></p>

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		board on or before May 2, 2019.	
9VAC25-151-60. Registration Statement and stormwater pollution prevention plan (SWPPP). B.4		4. Late registration statements. Registration statements for existing facilities covered under subdivision 1 a of this subsection will be accepted after June 30, 2019, but authorization to discharge will not be retroactive. Owners described in subdivision 1 a of this subsection that submit registration statements after May 2, 2019 are authorized to discharge under the provisions of 9VAC25-151-50 F (Continuation of permit coverage) if a complete registration statement is submitted before July 1, 2019.	4. Late registration statements. Registration statements for existing facilities covered under subdivision 1 a of this subsection will be accepted after June 30, 2024, but authorization to discharge will not be retroactive. <i>Revised date to June 30, 2024, to indicate the expiration date of the previous permit.</i> <i>Removed the final sentence of this section as it is duplicative of 9VAC25-151-50 F (Continuation of permit coverage).</i>
9VAC25-151-60. Registration Statement and stormwater pollution prevention plan (SWPPP). C.4		4. The nature of the business conducted at the facility to be covered under this general permit;	4. The nature of the business conducted at the facility to be covered under this general permit, including a description of the primary industrial activity and all other industrial activities that take place. <i>Added language to the registration statement in order to clarify a facility's primary industrial activity and any co-located industrial activities.</i>
9VAC25-151-60. Registration Statement and stormwater pollution prevention plan (SWPPP). C.6		6. A determination of whether the facility will discharge to an MS4. If the facility discharges to an MS4, the facility owner must notify the owner of the MS4 of the existence of the discharge information at the time of registration under this permit and include that notification with the registration statement ...	<i>Removed "at the time of registration under this permit" in order to clarify that a new MS4 notification does not need to be made with each re-registration under the general permit.</i>
9VAC25-151-60. Registration Statement and		9. Whether or not this facility will discharge stormwater runoff from coal storage piles;	<i>Deleted due to duplicative language. Section 11.c (now 10.c) of this section already asks about runoff from coal storage piles.</i>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
stormwater pollution prevention plan (SWPPP). C.9			<i>Following sections renumbered.</i>
9VAC25-151-60. Registration Statement and stormwater pollution prevention plan (SWPPP). C.10	C.9	10. Identification of up to four four-digit Standard Industrial Classification (SIC) Codes or 2-letter Industrial Activity Codes that best represent the principal products or services rendered by the facility and major colocated industrial activities ...	9. For each outfall, identification of up to four four-digit Standard Industrial Classification (SIC) Codes ... <i>Added "For each outfall". Different outfalls at a facility may have vastly different industrial activities in their drainage areas.</i>
9VAC25-151-60. Registration Statement and stormwater pollution prevention plan (SWPPP). C.11.b	C.10.b	b. If the facility is a timber products operation (sector A), indicate which outfalls (if any) receive discharges from wet decking areas;	b. If the facility is a timber products operation (sector A), state which outfalls (if any) receive discharges from wet decking areas, and which outfalls (if any) collect runoff from areas where mulch dyeing operations (including loading, transporting, and storage) occur; <i>Added requirement to identify outfalls that collect runoff from mulch dyeing operations. There are additional requirements for mulch dyeing operations under Sector A, so this helps clarify which outfalls at a facility need these additional requirements.</i>
9VAC25-151-60. Registration Statement and stormwater pollution prevention plan (SWPPP). C.11.g	C.10.g	g. For primary airports, list the average deicing season and indicate which outfalls (if any) receive discharges from deicing of non-propeller aircraft, and the annual average departures of non-propeller aircraft. It should be noted that airport facilities subject to the effluent limitation guidelines in 40 CFR Part 449 are not authorized under this permit.	g. For primary airports subject to 40 CFR 449 (1,000 or more annual departures of non-propeller aircraft), list the average deicing season and state which outfalls (if any) receive discharges from deicing or anti-icing operations. <i>Authorization for discharges from deicing operations at primary airports was removed in the 2019 general permit. However, a handful of non-hub primary airports were subsequently covered under Sector AD in order to avoid the unnecessary costs and</i>

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			<p><i>administrative burden of coverage under an Individual VPDES Permit.</i></p> <p><i>The registration statement has been updated to identify which outfalls at primary airports receive discharges from deicing or anti-icing operations. It also clarifies that primary airports subject to 40 CFR 449 are those with 1,000 or more annual departures of non-propeller aircraft.</i></p>
<p>9VAC25-151-60. Registration Statement and stormwater pollution prevention plan (SWPPP). C.14</p>	<p>C.13</p>	<p>13. Virginia’s Phase I Chesapeake Bay TMDL Watershed Implementation Plan (November 29, 2010) states that wasteloads for future growth for new facilities in the Chesapeake Bay watershed with industrial stormwater discharges cannot exceed the nutrient and sediment loadings that were discharged prior to the land being developed for the industrial activity. For purposes of this permit regulation, facilities that commence construction after June 30, 2019, must be consistent with this requirement to be eligible for coverage under this general permit. If this is a new facility that commenced construction after June 30, 2019, in the Chesapeake Bay watershed, and applying for first time general permit coverage ...</p>	<p><i>Revised both dates to June 30, 2024, as part of updating and reissuing the general permit.</i></p>
<p>9VAC25-151-60. Registration Statement and stormwater pollution prevention plan (SWPPP). C.14.a</p>	<p>C.13.a</p>	<p>a. ... Design specifications and pollutant removal efficiencies for specific BMPs can be found on the Virginia Stormwater BMP Clearinghouse website at http://www.vwrrc.vt.edu/swc; or,</p>	<p><i>Removed “at http://www.vwrrc.vt.edu/swc” to avoid having to update the link every reissuance.</i></p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-151-60. Registration Statement and stormwater pollution prevention plan (SWPPP). E.		E. Where to submit.	<p><i>Added the following contingent e-reporting language:</i></p> <p>Following notification from the department of the start date for the required electronic submission of Notices of Intent to discharge forms (i.e., registration statements) as provided for in 9VAC25-31-1020, such forms submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least three months' notice provided between the notification from the department and the date after which such forms must be submitted electronically.</p> <p><i>E-reporting is required by federal regulation (see 80 FR 64064; 10/22/2015 and 85 FR 69189; 11/2/2020) and state regulation (9VAC25-31-1020).</i></p>
9VAC25-151-70. General permit.		General Permit No.: VAR05 Effective Date: July 1, 2019 Expiration Date: June 30, 2024	<i>Updated effective date to July 1, 2024, and the expiration date to June 30, 2029.</i>
9VAC25-151-70. General permit.		The authorized discharge shall be in accordance with this cover page, the registration statement, Part I-Effluent Limitations, Monitoring Requirements and Special Conditions, Part II-Conditions Applicable to All VPDES Permits, Part III-Stormwater Pollution Prevention Plan, and Part IV-Sector-Specific Permit Requirements as set forth in this general permit.	<p>The authorized discharge shall be in accordance with this cover page, the registration statement, Part I-Effluent Limitations, Monitoring Requirements and Special Conditions, Part II-Conditions Applicable to All VPDES Permits, Part III-Stormwater Pollution Prevention Plan, Part IV-Sector-Specific Permit Requirements, and Part V-Chesapeake Bay Total Maximum Daily Load Compliance as set forth in this general permit.</p> <p><i>Added reference to the new Part V of the general permit which consolidates all the Chesapeake Bay TMDL Compliance requirements into one section.</i></p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-151-70. General Permit. Part I.A.1.a.(1)		The permittee shall perform and document a quarterly visual examination of a stormwater discharge associated with industrial activity from each outfall, except discharges exempted in Part I A 3 or Part I A 4. The examinations shall be made at least once in each of the following three-month periods: January through March, April through June, July through September, and October through December. The visual examination shall be made during normal working hours, where practicable, and when considerations for safety and feasibility allow. If no storm event resulted in runoff from the facility during a monitoring quarter, the permittee is excused from visual monitoring for that quarter provided that documentation is included with the monitoring records indicating that no runoff occurred. The documentation shall be signed and certified in accordance with Part II K of this permit.	<i>Deleted last sentence requiring that documentation be signed in accordance with Part II K. Visual monitoring documentation is not submitted to the department and therefore does not require this form of signature.</i>
9VAC25-151-70. General Permit. Part I.A.1.a.(3)		(3) The visual examination reports shall be maintained on-site with the SWPPP. The report shall include the outfall location, the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the stormwater discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollution), and probable	<i>Revised “reports” and “report” to “documentation” to clarify that visual examinations are not reported to the department. Documentation of these examinations are to be maintained with the SWPPP.</i>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
		sources of any observed stormwater contamination.	
9VAC25-151-70. General Permit. Part I.A.1.b. Table 70-1		Table 70-1 Industrial Sectors Subject to Benchmark Monitoring	<p><i>Table 70-1 lists the benchmark monitoring parameters for each Industry Sector and their associated SIC or Activity codes. Benchmarks were updated in accordance with EPA’s 2021 MSGP, the Virginia Water Quality Standards (WQS), and the recommendations of the TAC. As part of these updates, iron and magnesium were removed as benchmarks and have been deleted from Table 70-1 where present.</i></p> <p><i>Sector O (Steam Electric Generating Facilities) previously only had a benchmark for iron; thus, this sector is no longer subject to benchmark requirements.</i></p>
9VAC25-151-70. General Permit. Part I.A.1.b.(1)		(1) ...Depending on the results of four consecutive monitoring periods, benchmark monitoring may not be required to be conducted in subsequent monitoring periods (see Part I A 1 b (2)).	<i>This final sentence references the very next section. Deleted due to unnecessary duplication.</i>
9VAC25-151-70. General Permit. Part I.A.1.b.(1)(a)		(a) Samples were collected in four consecutive monitoring periods, and the average of the four samples for all parameters at the outfall is below the applicable benchmark concentration value in Part IV. Facilities that were covered under the 2014 industrial stormwater general permit may use sampling data from the last two monitoring periods of that permit and the first two monitoring periods of this permit to satisfy the four consecutive monitoring periods requirement;	<i>Revised date to 2019 to reference the previous permit term.</i>
9VAC25-151-70. General		(c) ... The waiver request shall be sent to the appropriate DEQ	(c) ... and a certification that, based on current potential pollutant

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Permit. Part I.A.1.b.(1)(c)		regional office, along with the supporting monitoring data for four consecutive monitoring periods, and a certification that, based on current potential pollutant sources and control measures used, discharges from the facility are reasonably expected to be essentially the same (or cleaner) compared to when the benchmark monitoring for the four consecutive monitoring periods was done.	sources and control measures used, discharges from the facility are reasonably expected to be substantially similar or cleaner compared to when the benchmark monitoring for the four consecutive monitoring periods was done. <i>Revised “essentially the same (or cleaner)” to “substantially similar or cleaner” to match the language used throughout the regulation.</i>
9VAC25-151-70. General Permit. Part I.A.1.c.(1). Table 70-2		Table 70-2 Stormwater-Specific Effluent Limitation Guidelines. ... Facilities subject to effluent limitation guidelines in 40 CFR Part 449 are not authorized under this permit.	... Facilities subject to the effluent limitation guidelines in 40 CFR Part 449 may be covered under Sector AD. <i>Authorization for discharges from deicing operations at primary airports was removed in the 2019 general permit. However, a handful of non-hub primary airports were subsequently covered under Sector AD (Nonclassified Facilities/Stormwater Discharges Designated by the Department as Requiring Permits) in order to avoid the unnecessary costs and administrative burden of coverage under an Individual VPDES Permit.</i> <i>As such, Tables 50-1 and 70-2 of the regulation have been updated to clarify that primary airports subject to the referenced federal effluent limitation guidelines may be covered under Sector AD. Further, a new condition has been added to Part III of the general permit to address deicing and anti-icing operations.</i>
9VAC25-151-70. General Permit. Part I.A.1.c.(3)		(3) ... Owners of facilities that are a source of the specified pollutant of concern to waters for which a TMDL wasteload allocation has been approved prior to the term of this permit	(3) ... Owners of facilities that are a source of the specified pollutant of concern to waters for which a TMDL wasteload allocation has been approved by the U.S. Environmental Protection Agency

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		will be notified as such by the department when they are approved for coverage under the general permit.	(EPA) before the term of this permit will be notified by the department when they are approved for coverage under the general permit. <i>Clarified that TMDLs must be approved by EPA prior to the term of the permit.</i>
9VAC25-151-70. General Permit. Part I.A.1.c.(3)(a)		(a) Upon written notification from the department, facilities subject to TMDL wasteload allocations shall be required to monitor such the discharges to evaluate compliance with the TMDL requirements.	a) Upon written notification from the department, permittees shall monitor the discharges for the pollutant subject to TMDL wasteload allocation once every six months after coverage under the permit begins, unless another sampling frequency is determined by the department for polychlorinated biphenyls (PCBs). Monitoring begins with the first full monitoring period after the owner is granted coverage under the permit. Monitoring periods are specified in Part I A 2. <i>Sections (a) and (b) had duplicative language and have been combined. Subsequent sections of Part I.A.1.c.(3) renumbered.</i>
9VAC25-151-70. General Permit. Part I.A.1.c.(3)(d)	I.A.1.c(3)(c)	(d) If the pollutant subject to the TMDL wasteload allocation is below the quantitation level in all of the samples from the first four monitoring periods (i.e., the first two years of coverage under the permit) ...If the pollutant subject to the TMDL wasteload allocation is above the quantitation level in any of the samples from the first four monitoring periods, the permittee shall continue the scheduled TMDL monitoring throughout the term of the permit.	(c) If the pollutant subject to the TMDL wasteload allocation is below the quantitation level in all of the samples from the first four monitoring periods ...If the pollutant subject to the TMDL wasteload allocation is above the quantitation level in any of the samples from the first four monitoring periods, the permittee shall continue the scheduled TMDL monitoring. Applicable sampling data collected during the 2019 industrial stormwater general permit term may be used to satisfy all or part of the four monitoring periods requirement.

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			<p><i>Deleted “(i.e., the first two years of coverage under the permit)” given that PCB monitoring likely has a different sampling frequency.</i></p> <p><i>Added final sentence to allow previous sampling, if available, to be used to satisfy new TMDL monitoring requirements.</i></p>
<p>9VAC25-151-70. General Permit.</p>	<p>I.A.1.c(3)(d)</p>		<p>(d) Upon written notification from the department, facilities exceeding the TMDL wasteload allocation shall prepare and submit a pollutant minimization plan (PMP) designed to investigate the location and potential reduction of sources in the facility’s stormwater discharges. The PMP shall be developed and submitted to the department for approval within 180 days of the receipt of notification from the department. The PMP shall include the following items, as appropriate ...</p> <p><i>EPA’s VPDES regulation, 40 CFR § 122.44(d) requires permits be consistent with TMDL wasteload allocations. In situations where a facility exceeds the TMDL wasteload allocation, specifying items to be included in a pollutant minimization plan (PMP), which outlines how the facility will return to compliance with the TMDL, promotes clarity and statewide consistency for DEQ and permitted facilities.</i></p>
<p>9VAC25-151-70. General Permit. Part I.A.1.c.(4)</p>		<p>(4) Facilities discharging to an impaired water without an approved TMDL wasteload allocation. Owners of facilities that discharge to waters listed as impaired in the 2016 Final 305(b)/303(d) Water Quality Assessment Integrated Report ...</p>	<p><i>Updated date of the Water Quality Assessment Integrated Report to 2022 to reference the most recent version of the report.</i></p>
<p>9VAC25-151-70. General</p>		<p>(a) Upon written notification from the department, facilities</p>	<p>(a) Upon written notification from the department, permittees shall</p>

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Permit. Part I.A.1.c.(4)(a)		<p>discharging to an impaired water without an approved TMDL wasteload allocation shall be required to monitor such discharges for the pollutants that caused the impairment.</p> <p>(b) Permittees shall monitor the discharges for all pollutants for which the waterbody is impaired, and for which a standard analytical method exists, at least once during each of the monitoring periods after coverage under the permit begins. Monitoring commences with the first full monitoring period after the owner is granted coverage under the permit. Monitoring periods are specified in Part I A 2.</p>	<p>monitor the discharges for all pollutants for which the waterbody is impaired, and for which a standard analytical method exists, at least once every six months after coverage under the permit begins, unless otherwise determined by the department for polychlorinated biphenyls (PCBs). Monitoring begins with the first full monitoring period after the owner is granted coverage under the permit. Monitoring period are specified in Part I A 2.</p> <p><i>Sections (a) and (b) had duplicative language and have been combined. Following sections renumbered.</i></p> <p><i>The combination of the two sections modifies a requirement that is in the permit that is effective through June 30, 2024, “permittees shall monitor ... at least once during each of the monitoring periods[,]” to clarify the monitoring frequency is “at least once every six months[,]” making it consistent with Part I A 2 d (2).</i></p>
9VAC25-151-70. General Permit. Part I.A.2.b		<p>b. When and how to sample. A minimum of one grab sample shall be taken from the discharge associated with industrial activity resulting from a storm event that results in a discharge from the site (defined as a “measurable storm event”), providing the interval from the preceding measurable storm event is at least 72 hours ...</p>	<p>b. When and how to sample. A minimum of one grab sample shall be taken from the discharge associated with industrial activity resulting from a storm event that results in a discharge from the site, providing the interval from the preceding storm event discharge is at least 72 hours ...</p> <p><i>Deleted parenthetical “measurable storm event” definition and replaced associated references with “storm event discharge”. Samples are required when a storm event results in a discharge.</i></p>
9VAC25-151-70. General		<p>c. Storm event data. For each monitoring event (except snowmelt monitoring), along</p>	<p>c. Storm event data. For each monitoring event (except snowmelt monitoring), along with the</p>

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Permit. Part I.A.2.c		with the monitoring results, the permittee shall identify the date and duration (in hours) of the storm events sampled; rainfall total (in inches) of the storm event that generated the sampled runoff; and the duration between the storm event sampled and the end of the previous measurable storm event. For snowmelt monitoring, the permittee shall identify the date of the sampling event.	<p>monitoring results, the permittee shall identify the date of the storm event sampled; rainfall total (in inches) of the storm event that generated the sampled runoff; and the interval between the storm event sampled and the end of the previous storm event discharge. For snowmelt monitoring, the permittee shall identify the date of the sampling event.</p> <p><i>Removed requirement to report the duration (in hours) of the storm event. Replaced “measurable storm event” with “storm event discharge”.</i></p>
9VAC25-151-70. General Permit. Part I.A.2.e		e. Documentation explaining a facility’s inability to obtain a sample (including dates and times the outfalls were viewed or sampling was attempted), of no rain event, or of deviation from the “measurable” storm event requirements shall be maintained with the SWPPP ...	<p>e. Documentation explaining a facility’s inability to obtain a sample (including dates and times the outfalls were viewed or sampling was attempted), of no rain event, or of deviation from the 72-hour storm interval shall be submitted with the e-DMR and maintained with the SWPPP.</p> <p><i>Replaced “measurable storm event requirements” with “72-hour storm interval”. Submitting documentation through the electronic discharge monitoring report (e-DMR) is consistent with EPA’s electronic reporting requirements (40 CFR Part 3), which are incorporated in Virginia’s VPDES Regulation at 9VAC25-31-950 et seq.</i></p>
9VAC25-151-70. General Permit. Part I.A.6.a		a. Data exceeding benchmark concentration values ...	<p>a. The permittee shall take corrective action whenever: ...</p> <p><i>Part I.A.6 Corrective actions sections a. and b. were reorganized and duplicative language was removed for clarification purposes.</i></p>

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			<i>There are no substantive changes to the regulatory requirements of this section.</i>
9VAC25-151-70. General Permit. Part I.A.6.c		c. Follow-up reporting ...Within 30 calendar days of implementing the relevant corrective action, an exceedance report shall be submitted to the department.	c. Follow-up reporting ...Within 30 calendar days of implementing the relevant corrective action, an exceedance report shall be submitted to the department and shall be signed in accordance with Part II K. <i>Added language requiring that exceedance reports submitted to the department must be signed in accordance with Part II K.</i>
9VAC25-151-70. General Permit. Part I.B.1.a		a. Discharges from emergency firefighting activities;	a. Discharges from emergency firefighting activities or firefighting training activities managed in a manner to avoid an instream impact in accordance with § 9.1-207.1 of the Code of Virginia; <i>Added firefighting training activities managed in a manner to avoid an instream impact in accordance with § 9.1-207.1 of the Code of Virginia.</i>
9VAC25-151-70. General Permit. Part I.B.1.g		g. Routine external building washdown that does not use detergents or hazardous cleaning products;	g. Routine external building washdown provided no soaps, solvents or detergents are used, external building surfaces do not contain hazardous substances, and the wash water is filtered, settled, or similarly treated prior to discharge. <i>Revised for consistency with the Construction Stormwater general permit language (9VAC25-880-30) and in response to EPA comments.</i> <i>The previous proposed language required that routine external building washdown be “managed in a manner to avoid an instream impact.” The revisions replace that</i>

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9VAC25-151-70. General Permit. Part I.B.1.h		h. Pavement wash waters where no detergents or hazardous cleaning products are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed). Pavement wash waters shall be managed in a manner to avoid an instream impact;	<p><i>language and clarify what it means.</i></p> <p>h. Pavement wash waters provided no soaps, solvents, detergents or hazardous cleaning products are used, and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled or leaked material is removed prior to washing), and the wash water is filtered, settled, or similarly treated prior to discharge.</p> <p><i>Revised for consistency with the Construction Stormwater general permit language (9VAC25-880-30) and in response to EPA comments.</i></p> <p><i>The previous language required that pavement wash waters be “managed in a manner to avoid an instream impact.” The revisions replace that language and clarify what it means</i></p>
9VAC25-151-70. General Permit. Part I.B.7		7. Discharges to waters subject to TMDL wasteload allocations. Owners of facilities that are a source of the specified pollutant of concern to waters for which a TMDL wasteload allocation has been approved prior to the term of this permit shall incorporate measures and controls into the SWPPP ...	<p>7. Discharges to waters subject to TMDL wasteload allocations. Owners of facilities that are a source of the specified pollutant of concern to waters for which a TMDL wasteload allocation has been approved by EPA prior to the term of this permit shall incorporate measures and controls into the SWPPP ...</p> <p><i>Clarified that TMDLs must be approved by EPA prior to the term of the permit.</i></p>
9VAC25-151-70. General Permit. Part I.B.8		8. Discharges to waters subject to the Chesapeake Bay TMDL.	<p><i>The entirety of the Chesapeake Bay TMDL conditions are moved to a new Part V (9VAC25-151-400) in order to simplify the general permit. Substantive changes to the requirements are described later in this document.</i></p> <p><i>Subsequent sections of Part I.B renumbered.</i></p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-151-70. General Permit. Part I.B.10.a	Part I.B.9.a	a. For any industrial activity area expansions (i.e., construction activities, including clearing, grading, and excavation activities) that commence on or after July 1, 2019, (the effective date of this permit), the permittee shall document in the SWPPP the information and calculations used to determine the nutrient and sediment loadings discharged from the expanded land area prior to the land being developed, and the measures and controls that were employed to meet the no net increase of stormwater nutrient and sediment load as a result of the expansion of the industrial activity.	A. For any industrial activity area expansions (i.e., construction activities, including clearing, grading, and excavation activities) that begin on or after July 1, 2024, the permittee shall document in the SWPPP the information and calculations used to determine the nutrient and sediment loadings discharged from the expanded land area before the land was developed, and the measures and controls that were employed to meet the no net increase of stormwater nutrient and sediment load as a result of the expansion of the industrial activity. <i>Updated date to July 1, 2024 and deleted parenthetical reference to the effective date of the permit.</i>
9VAC25-151-70. General Permit. Part II.H		H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge ...	<i>Deleted "by telephone". Part II.1.3 handles the various options for reports of noncompliance, which includes phone, and the online Pollution Response Preparedness (PreP) portal.</i>
9VAC25-151-70. General Permit. Part II.1.1.a		a. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances ...	<i>Deleted "oral". Part II.1.3 handles the various options for reports of noncompliance, which includes phone, and the online Pollution Response Preparedness (PreP) portal.</i>
9VAC25-151-70. General Permit. Part II.1.3		3. The immediate (with 24 hours) reports required in Part II G, H and I may be made to the department's regional office. Reports may be made by telephone, or online at [old weblink here]. For reports outside normal working hours,	3. The immediate (with 24 hours) reports required in Part II G, H and I shall be made to the department's regional office. Reports may be made by telephone, or online at https://www.deq.virginia.gov/get-involved/pollution-response . For reports outside normal working

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		<p>a message may be left and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.</p>	<p>hours, the online portal shall be used. For emergencies, call the Virginia Department of Emergency Management’s Emergency Operations Center (24-hours) at 1-800-468-8892.</p> <p><i>Clarified that the referenced immediate reports shall be made to the department’s regional office. Updated link to the online Pollution Response Preparedness (PreP) portal. Clarified that the online portal shall be used for reports outside of normal working hours.</i></p>
<p>9VAC25-151-80. Stormwater Pollution Prevention Plans. Part III.A.1</p>		<p>1. Facilities that were covered under the 2014 Industrial Stormwater General Permit. Owners of facilities that were covered under the 2014 Industrial Stormwater General Permit who are continuing coverage under this general permit shall update and implement any revisions to the SWPPP within 90 days of the board granting coverage under this permit.</p>	<p><i>Updated dates to reference the 2019 general permit.</i></p>
<p>9VAC25-151-80. Stormwater Pollution Prevention Plans. Part III.B</p>	<p>Part III.B.10</p>		<p>(10) Airport deicing operations. The permittee shall minimize, and where practicable eliminate, the use of deicing or anti-icing chemicals in order to reduce the aggregate amount of deicing or anti-icing chemicals used and lessen the environmental impact.</p> <p>...</p> <p><i>“Airport deicing operations” are included in the list of “industrial activity” in the Definitions section (9VAC25-151-10). However, permittees typically only receive the “general permit” section of the regulation and may not be aware that it is a covered industrial activity.</i></p>

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			<p><i>This condition has been added to the general SWPPP section in order to make it clear that deicing operations are covered by the general permit (non-primary airports are covered under Sector AE, primary airports may covered under Sector AD) and to provide some control measure options for consideration.</i></p> <p><i>This condition is based on language in the 2021 EPA MSGP and language used for "Sector S" in previous iterations of the general permit.</i></p>
<p>9VAC25-151-80. Stormwater Pollution Prevention Plan. Part III.C (Maintenance</p>		<p>... If routine facility inspections required by Part III B 5 identify control measures that are not operating effectively, repairs or maintenance shall be performed before the next anticipated storm event. If maintenance prior to the next anticipated storm event is not possible, maintenance shall be scheduled and accomplished as soon as practicable. ...</p>	<p>... If routine facility inspections required by Part III B 5 identify control measures that are not operating effectively, repairs or maintenance shall be performed before the next anticipated storm event. If maintenance before the next anticipated storm event is not possible, maintenance shall be scheduled and accomplished as soon as practicable, but not later than within 60 days of the inspection, unless permission for a later date is granted in writing by the director. ...</p> <p><i>Part III.B.5 (Routine facility inspections) requires that deficiencies in the implementation of the SWPPP that are found during routine inspections shall be corrected as soon as practicable, "but not later than within 60 days of the inspection, unless permission for a later date is granted in writing by the director." This language has been added to Part III.C (Maintenance) in response to EPA comments to clarify that maintenance issues identified</i></p>

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			<i>during the routine inspections are also subject to these requirements.</i>
9VAC25-151-80. Stormwater Pollution Prevention Plans. Part III.E.2		2. Availability. The permittee shall retain a copy of the current SWPPP required by this permit at the facility ...	2. Availability. The permittee shall retain a copy of the current SWPPP (hard copy or electronic) required by this permit at the facility ... <i>Clarified that copies of the SWPPP retained onsite may be either in hard copy or in electronic format.</i>
9VAC25-151-90 through 9VAC25-390. Sector-Specific Permit Requirements. Part IV			Sector-specific benchmark monitoring parameters were updated in accordance with EPA's 2021 MSGP, the Virginia Water Quality Standards (WQS), and the recommendations of the TAC. <i>Benchmark concentrations are not effluent limitations and should not be interpreted as such. These values are merely levels to determine if a stormwater discharge merits further monitoring to ensure that the facility has been successful in implementing a SWPPP.</i> <i>The following benchmarks were changed, where applicable:</i> <i>Aluminum: Updated to match the 2021 MSGP benchmark (1.10 mg/L). There is no Virginia WQS for aluminum.</i> <i>Arsenic: Updated to match the 2021 MSGP benchmark, which matches the chronic criteria in the current Virginia WQS (0.150 mg/L).</i> <i>Cadmium: Updated to match the 2021 MSGP benchmark, which matches the acute criteria in the current Virginia WQS (0.0018 mg/L).</i> <i>Copper: EPA's copper benchmark (0.00519 mg/L) in the 2021 MSGP</i>

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			<p><i>is based on the biotic ligand model. This model was not adopted by Virginia for copper in the 2022 rulemaking (Triennial Review) of the WQS. Thus, the copper benchmark was updated to match the current acute criteria in the Virginia WQS (0.013 mg/L).</i></p> <p><i>Iron: Removed. EPA removed iron as a benchmark in the 2021 MSGP due to lack of acute toxicity. There is no acute criteria for iron in the Virginia WQS.</i></p> <p><i>Lead: Updated to match the 2021 MSGP benchmark (0.082 mg/L), which is slightly lower than the acute criteria in the current Virginia WQS (0.094 mg/L).</i></p> <p><i>Magnesium: Removed. EPA removed magnesium as a benchmark in the 2021 MSGP due to lack of acute toxicity. There is no Virginia WQS for magnesium.</i></p> <p><i>Silver: Updated to match the 2021 MSGP benchmark (0.0032 mg/L), which is slightly lower than the acute criteria in the current Virginia WQS (0.0034 mg/L).</i></p>
9VAC25-151-220. Sector O. Steam electric generating facilities.		C. Numeric effluent limitations. Permittees with point sources of coal pile runoff associated with steam electric power generation shall monitor these stormwater discharges for the presence of TSS and for pH at least annually in accordance with Part I A 1 c (2).	<p>C. Numeric effluent limitations. Permittees with point sources of coal pile runoff associated with steam electric power generation shall monitor these stormwater discharges for the presence of TSS and for pH in accordance with Part I A 1 c (2).</p> <p><i>This section references the numeric effluent limitations for coal pile runoff listed in Table 70-3 under Part I.A.1.c(2), which includes a monitoring frequency of 1/6 months for both TSS and pH.</i></p> <p><i>As such, the phrase “at least annually” has been removed from</i></p>

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			<i>the language under 9VAC25-151-220 C for consistency.</i>
9VAC25-151-220. Sector O. Steam electric generating facilities.		D. Benchmark monitoring and reporting requirements.	<i>Removed. Sector O previously only had a benchmark for iron; thus, this sector is no longer subject to benchmark requirements.</i>
9VAC25-151-370. Sector AD (Nonclassified facilities or stormwater discharges designated by the department as requiring permits). B.		B. Benchmark monitoring and reporting requirements. The board shall establish any additional monitoring requirements for your facility prior to authorizing coverage under this permit.	<p>B. Effluent limitations, benchmark monitoring and reporting requirements. The department shall establish any additional monitoring requirements for your facility before authorizing coverage under this permit.</p> <p><i>The heading of this section was modified to clarify that the establishment of “additional monitoring requirements” by the department for facilities covered under this Sector may include effluent limitations (i.e. federal effluent guidelines).</i></p> <p><i>This change was made in response to EPA comments regarding coverage of primary airports.</i></p>
9VAC25-151-380. Sector AE (Facilities with no analytical benchmark monitoring requirements). A.		A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities with SIC Codes 2611, 2621, 2652 2657, 2833 2836, 2851, 2861 2869, 2891 2899, 3952, 3211, 3221, 3229, 3231, 3241, 3281, 3291 3299, 3331 3339, 3398, 3399, 3341, 1311, 1321, 1381 1389, 2911, 4512 4581, ...	<p>A. Discharges covered under this section. The requirements listed under this section apply to stormwater discharges associated with industrial activity from facilities with SIC Codes 2611, 2621, 2652-2657, 2833-2836, 2851, 2861-2869, 2891-2899, 3952, 3211, 3221, 3229, 3231, 3241, 3281, 3291-3299, 3331-3339, 3398, 3399, 3341, 1311, 1321, 1381-1389, 2911, 4512-4581 (not subject to federal effluent guidelines) ...</p> <p><i>A parenthetical note was added to SIC codes 4512-4281 (Air Transportation Facilities) to clarify that such facilities may only be covered under this Sector if they</i></p>

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			<p><i>are not subject to federal effluent guidelines.</i></p> <p><i>This change was made in response to EPA comments regarding coverage of primary airports.</i></p>
	<p>9VAC25-151-400. Chesapeake Bay Total Maximum Daily Load Compliance. Part V.</p>		<p><i>The entirety of the Chesapeake Bay TMDL conditions are moved to this new Part V of the general permit. Changes to the conditions are as follows:</i></p> <p><i>The monitoring frequency has been changed to quarterly in order to meet the December 31, 2025 deadline of the Chesapeake Bay TMDL.</i></p> <p><i>TSS reduction requirements have been removed in accordance with Virginia's Final Phase III Watershed Implementation Plan (WIP) based on the recommendations of the 2019 Chesapeake Bay Program Principals' Staff Committee.</i></p> <p><i>Requirements are now separated into three distinct categories depending on the status of a facility's demonstration of compliance with the Chesapeake Bay TMDL nutrient loading rates:</i></p> <p><i>(1) Existing facilities under the 2019 permit that have already demonstrated compliance,</i></p> <p><i>(2) Existing facilities under the 2019 permit that have <u>not</u> demonstrated compliance, and</i></p> <p><i>(3) Existing facilities that obtain initial coverage under the 2024 permit.</i></p> <p><i>Existing facilities registered under the 2019 permit after June 30, 2022, are subject to the same requirements as facilities obtaining initial coverage under the 2024</i></p>

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			<p><i>permit.</i></p> <p><i>Facilities that have already demonstrated compliance with the nutrient loading rates are to maintain documentation of the demonstration with SWPPP and continue to implement any BMPs developed as part of the demonstration.</i></p> <p><i>Reductions for existing facilities under the 2019 permit, if applicable, are to be achieved by December 31, 2025. Additionally, facilities with TMDL Action Plans that did not meet the required reductions by the end of the 2019 permit term shall update and resubmit their action plan within 60 days of coverage. Permittees shall achieve ten percent of the remaining reductions by December 31, 2024, and all remaining reductions by December 31, 2025.</i></p> <p><i>Reductions for existing facilities that obtain initial coverage under the 2024 permit, if applicable, are to be achieved two years following the fourth quarterly monitoring period.</i></p> <p><i>Facilities may use applicable sampling data collected during the 2019 permit term to satisfy all or part of their monitoring requirements.</i></p> <p><i>Alternative calculations may be proposed on a case-by-case basis to address facilities with outfalls that rarely discharge.</i></p>

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

This general permit does not predominantly apply to small businesses, rather, this general permit regulation governs point source discharges of stormwater associated with industrial activity to surface waters. Nevertheless, the reissuance of this VPDES general permit accomplishes the objectives of applicable law and minimizes the application burden and permit implementation costs to affected small business owners. Without the general permit, a small business owner would be required to obtain an individual permit, which would increase the complexity of a permit application, implementation, and compliance costs.

Family Impact

In accordance with § 2.2-606 of the Code of Virginia, please assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This general permit applies to point source discharges of stormwater associated with industrial activity to surface waters and has been designed to minimize burden while achieving a level of water quality protection consistent with state and federal requirements. This regulatory action does not address and will have no direct impact on 1) the authority and rights of parents, 2) economic self-sufficiency, self-pride, or assumption of familial responsibilities, 3) marital commitments, or 4) disposable family income.